

By: Coleman

H.B. No. 3485

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration of certain county services and
3 duties, including the administration of county assistance
4 districts.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 15.08, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 15.08. WARRANT MAY BE FORWARDED [~~TELEGRAPHED~~]. A
9 warrant of arrest may be forwarded by a method that ensures the
10 transmission of a duplicate of the original warrant, including
11 secure facsimile transmission or other secure electronic means
12 [~~telegraph from any telegraph office to another in this State~~]. If
13 issued by any magistrate named in Article 15.06, the peace officer
14 receiving the same shall execute it without delay. If it be issued
15 by any other magistrate than is named in Article 15.06, the peace
16 officer receiving the same shall proceed with it to the nearest
17 magistrate of the peace officer's [~~his~~] county, who shall endorse
18 thereon, in substance, these words:

19 "Let this warrant be executed in the county of",
20 which endorsement shall be dated and signed officially by the
21 magistrate making the same.

22 SECTION 2. Article 15.09, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 15.09. COMPLAINT MAY BE FORWARDED [~~BY TELEGRAPH~~]. A

1 complaint in accordance with Article 15.05, may be forwarded
2 [~~telegraphed~~], as provided by [~~in the preceding~~] Article 15.08, to
3 any magistrate in the State; and the magistrate who receives the
4 same shall forthwith issue a warrant for the arrest of the accused;
5 and the accused, when arrested, shall be dealt with as provided in
6 this Chapter in similar cases.

7 SECTION 3. Article 15.19(a), Code of Criminal Procedure, is
8 amended to read as follows:

9 (a) If the arrested person fails or refuses to give bail, as
10 provided in Article 15.18, the arrested person shall be committed
11 to the jail of the county where the person was arrested; and the
12 magistrate committing the arrested person shall immediately
13 provide notice to the sheriff of the county in which the offense is
14 alleged to have been committed regarding:

15 (1) the arrest and commitment, which notice may be
16 given by [~~telegraph~~] mail[~~7~~] or other written means or by secure
17 facsimile transmission or other secure electronic means; and

18 (2) whether the person was also arrested under a
19 warrant issued under Section 508.251, Government Code.

20 SECTION 4. Article 26.13, Code of Criminal Procedure, is
21 amended by adding Subsection (j) to read as follows:

22 (j) A person who is incarcerated in a facility operated by
23 or under contract with the Texas Department of Criminal Justice may
24 submit a plea of guilty or plea of nolo contendere regarding a
25 misdemeanor charge in writing, transmitted by mail, facsimile, or
26 other means. Before accepting a plea under this subsection, the
27 court shall make the admonitions required by this article to the

1 defendant in writing as provided by Subsection (d).

2 SECTION 5. Section 31.037, Election Code, is amended to
3 read as follows:

4 Sec. 31.037. SUSPENSION OR TERMINATION OF EMPLOYMENT. The
5 employment of the county elections administrator may be suspended,
6 with or without pay, or terminated at any time for good and
7 sufficient cause on the four-fifths vote of the county election
8 commission and approval of that action by a majority vote of the
9 commissioners court.

10 SECTION 6. Section 61.001(f), Government Code, is amended
11 to read as follows:

12 (f) A reimbursement for expenses under this section is not a
13 property right of a person who reports for jury service for purposes
14 of Chapters 72 and 74, Property Code. If a check, instrument, or
15 other method of payment authorized under Section 113.048, Local
16 Government Code, [~~instrument~~] representing a reimbursement under
17 this section is not presented for payment or redeemed before the
18 90th day after it is issued:

19 (1) the instrument or other method of payment is
20 considered forfeited and is void; and

21 (2) the money represented by the instrument or other
22 method of payment may be placed or retained in the county's jury
23 fund, the county's general fund, or any other fund in which county
24 funds can be legally placed, at the discretion of the commissioners
25 court.

26 SECTION 7. Section 61.003, Government Code, is amended by
27 adding Subsection (e) to read as follows:

1 (e) Notwithstanding Subsection (a), a county that has
2 adopted a system or method of payment authorized by Section
3 113.048, Local Government Code, may provide a person who reports
4 for jury service in the county an opportunity to donate all, or a
5 specific part designated by the juror, of the juror's daily
6 reimbursement by completing a self-executing application on a form
7 prescribed by the commissioners court.

8 SECTION 8. Section 694.002, Health and Safety Code, is
9 amended by adding Subsections (c) and (d) to read as follows:

10 (c) If a county discovers cash in the possession of a
11 deceased pauper, the county shall place the money in a trust
12 account. A person having a claim to the money in the trust account
13 must exercise the right to collect the money not later than the
14 first anniversary of the date the money is placed in the trust
15 account.

16 (d) A county may create a fund to be used by the county to
17 pay the costs incurred in disposing of the bodies of deceased
18 paupers. If money placed in a trust account under Subsection (c) is
19 not claimed by the first anniversary of the date the money is placed
20 in the trust account, the county may transfer the money to the fund
21 created under this subsection.

22 SECTION 9. Section 716.101, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 716.101. UNIDENTIFIED HUMAN REMAINS. (a) Except as
25 provided by Subsection (b), a [A] crematory establishment may not
26 accept for cremation unidentified human remains.

27 (b) Notwithstanding any other provision of this chapter, a

1 crematory establishment may accept for cremation unidentified
2 human remains from a county on the order of:

3 (1) the county commissioners court; or

4 (2) a court located in the county.

5 SECTION 10. Subchapter C, Chapter 113, Local Government
6 Code, is amended by adding Section 113.048 to read as follows:

7 Sec. 113.048. DISBURSEMENT OF MONEY FOR JURY SERVICE. (a)

8 Notwithstanding any other provision of this subchapter or other law
9 to the contrary, a county treasurer may disburse to a person who
10 reports for jury service and discharges the person's duty the daily
11 amount of reimbursement for jury service expenses set by the
12 commissioners court under Section 61.001, Government Code, by:

13 (1) using an electronic funds transfer system in
14 accordance with Chapter 156;

15 (2) using a cash dispensing machine;

16 (3) issuing a debit card or a stored value card; or

17 (4) using any other method that the county treasurer
18 and the commissioners court determine is secure, accurate, and
19 cost-effective and that is convenient for persons who report for
20 jury service.

21 (b) A system or method of payment adopted by a county
22 treasurer under Subsection (a) may be implemented only if it is
23 approved by the commissioners court and administered in accordance
24 with the procedures established by the county auditor or by the
25 chief financial officer of a county that does not have a county
26 auditor.

27 (c) A system or method of payment authorized by this section

1 may be used in lieu of or in addition to the issuance of warrants or
2 checks authorized under this subchapter.

3 SECTION 11. Subchapter Z, Chapter 157, Local Government
4 Code, is amended by adding Section 157.9031 to read as follows:

5 Sec. 157.9031. AUTHORITY TO REQUIRE REIMBURSEMENT FOR
6 CERTAIN COVERAGE. An intergovernmental pool operating under
7 Chapter 119 of this code or its successor may, pursuant to policies
8 concerning the provision of coverage adopted by the pool's
9 governing body or by a county commissioners court obtaining
10 coverage from such a pool, require reimbursement for the provision
11 of punitive damage coverage from a person to whom the
12 intergovernmental pool provides coverage.

13 SECTION 12. Section 262.003(a), Local Government Code, is
14 amended to read as follows:

15 (a) Any law that requires a county to follow a competitive
16 bidding procedure in making a purchase requiring the expenditure of
17 \$50,000 [~~\$25,000~~] or less does not apply to the purchase of an item
18 available for purchase from only one supplier.

19 SECTION 13. Section 262.023(a), Local Government Code, is
20 amended to read as follows:

21 (a) Before a county may purchase one or more items under a
22 contract that will require an expenditure exceeding \$50,000
23 [~~\$25,000~~], the commissioners court of the county must:

24 (1) comply with the competitive bidding or competitive
25 proposal procedures prescribed by this subchapter;

26 (2) use the reverse auction procedure, as defined by
27 Section 2155.062(d), Government Code, for purchasing; or

1 (3) comply with a method described by Subchapter H,
2 Chapter 271.

3 SECTION 14. Section 271.024, Local Government Code, is
4 amended to read as follows:

5 Sec. 271.024. COMPETITIVE BIDDING PROCEDURE APPLICABLE TO
6 CONTRACT. The bidding of [~~If a governmental entity is required by~~
7 ~~statute to award~~] a contract awarded by a governmental entity for
8 the construction, repair, or renovation of a structure, road,
9 highway, or other improvement or addition to real property [~~on the~~
10 ~~basis of competitive bids, and if the contract requires the~~
11 ~~expenditure of more than \$25,000 from the funds of the entity, the~~
12 ~~bidding on the contract~~] must be accomplished in the manner
13 provided by this subchapter if:

14 (1) a statute requires the governmental entity to
15 award the contract on the basis of competitive bids; and

16 (2) the contract requires the expenditure of more
17 than:

18 (A) \$25,000 from the funds of a governmental
19 entity other than a county; or

20 (B) \$50,000 from the funds of a county.

21 SECTION 15. Section 363.156(b), Local Government Code, is
22 amended to read as follows:

23 (b) To the extent competitive bidding procedures in Title 8
24 apply, the board may not enter purchasing contracts that involve
25 spending more than \$50,000 [~~\$25,000~~] unless the board complies
26 with:

27 (1) Subchapter C, Chapter 262, if the district was

1 created by a county; or

2 (2) Chapter 252, if the district was created by a
3 municipality.

4 SECTION 16. Section 387.003, Local Government Code, is
5 amended by amending Subsections (a), (b), (b-1), (c), (e), (f), and
6 (h) and adding Subsections (a-1), (i), and (j) to read as follows:

7 (a) The commissioners court of the county may call an
8 election on the question of creating a county assistance district
9 under this chapter. More than one county assistance district may be
10 created in a county.

11 (a-1) A district may ~~to~~ perform the following functions in
12 the district:

13 (1) the construction, maintenance, or improvement of
14 roads or highways;

15 (2) the provision of law enforcement and detention
16 services;

17 (3) the maintenance or improvement of libraries,
18 museums, parks, or other recreational facilities;

19 (4) the provision of services that benefit the public
20 health or welfare, including the provision of firefighting and fire
21 prevention services; or

22 (5) the promotion of economic development and tourism.

23 (b) The order calling the election must:

24 (1) define the boundaries of the district to include
25 any portion of the county in which the combined tax rate of all
26 local sales and use taxes imposed, including the rate to be imposed
27 by the district if approved at the election, would not exceed the

1 maximum combined rate of sales and use taxes imposed by political
2 subdivisions of this state that is prescribed by Sections 321.101
3 and 323.101, Tax Code [~~two percent~~]; and

4 (2) call for the election to be held within those
5 boundaries.

6 (b-1) If the proposed district includes any territory of a
7 municipality, the commissioners court shall send notice by
8 certified mail to the governing body of the municipality of the
9 commissioners court's intent to create the district. If the
10 municipality has created a development corporation under Chapter
11 504 or 505, Local Government Code [~~Section 4A or 4B, Development~~
12 ~~Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil~~
13 ~~Statutes)~~], the commissioners court shall also send the notice to
14 the board of directors of the corporation. The commissioners court
15 must send the notice not later than the 60th day before the date the
16 commissioners court orders the election. The governing body of the
17 municipality may exclude the territory of the municipality from the
18 proposed district by sending notice by certified mail to the
19 commissioners court of the governing body's desire to exclude the
20 municipal territory from the district. The governing body must
21 send the notice not later than the 45th day after the date the
22 governing body receives notice from the commissioners court under
23 this subsection. The territory of a municipality that is excluded
24 under this subsection may subsequently be included in:

25 (1) the district in an election held under Subsection
26 (f) with the consent of the municipality; or

27 (2) another district after complying with the

1 requirements of this subsection and after an election under
2 Subsection (f).

3 (c) The ballot at the election must be printed to permit
4 voting for or against the proposition: "Authorizing the creation
5 of the ____ County Assistance District No.____ (insert name of
6 district) and the imposition of a sales and use tax at the rate of
7 ____ [~~of one~~] percent (insert [~~one-eighth, one-fourth,~~
8 ~~three-eighths, or one-half, as~~] appropriate rate) for the purpose
9 of financing the operations of the district."

10 (e) If a majority of the votes received at the election are
11 against the creation of the district, the district is not created
12 and the county at any time may call one or more elections [~~another~~
13 ~~election~~] on the question of creating one or more [~~a~~] county
14 assistance districts [~~district may not be held in the county before~~
15 ~~the first anniversary of the most recent election concerning the~~
16 ~~creation of a district~~].

17 (f) The commissioners court may call an election to be held
18 in an area of the county that is not located in a district created
19 under this section to determine whether the area should be included
20 in the district and whether the district's sales and use tax should
21 be imposed in the area. An election may not be held in an area in
22 which the combined tax rate of all local sales and use taxes
23 imposed, including the rate to be imposed by the district if
24 approved at the election, would exceed the maximum combined rate of
25 sales and use taxes imposed by political subdivisions of this state
26 that is prescribed by Sections 321.101 and 323.101, Tax Code [~~two~~
27 ~~percent~~].

1 (h) If more than one election to authorize a local sales and
2 use tax is held on the same day in the area of a proposed district or
3 an area proposed to be added to a district and if the resulting
4 approval by the voters would cause the imposition of a local sales
5 and use tax in any area to exceed the maximum combined rate of sales
6 and use taxes of political subdivisions of this state that is
7 prescribed by Sections 321.101 and 323.101, Tax Code [~~two percent~~],
8 only a tax authorized at an election under this section may be
9 imposed.

10 (i) In addition to the authority to include an area in a
11 district under Subsection (f), the governing body of a district by
12 order may include an area in the district on receipt of a petition
13 or petitions signed by the owner or owners of the majority of the
14 land in the area to be included in the district. If there are no
15 qualified voters in the area to be included in the district, no
16 election is required.

17 (j) The commissioners court by order may exclude an area
18 from the district if the district has no outstanding bonds payable
19 wholly or partly from sales and use taxes and the exclusion does not
20 impair any outstanding district debt or contractual obligation.

21 SECTION 17. Section 387.005, Local Government Code, is
22 amended to read as follows:

23 Sec. 387.005. GOVERNING BODY. (a) The commissioners
24 court of the county in which the district is created by order shall
25 provide that:

26 (1) the commissioners court is the governing body of
27 the district; or

1 (2) the commissioners court shall appoint a governing
2 body of the district.

3 (b) A member of the governing body of the district
4 ~~[commissioners court]~~ is not entitled to compensation for service
5 ~~[on the governing body of the district]~~ but is entitled to
6 reimbursement for actual and necessary expenses.

7 (c) A board of directors appointed by the commissioners
8 court under this section shall consist of five directors who serve
9 staggered terms of two years. To be eligible to serve as a
10 director, a person must be at least 18 years of age and a resident of
11 the county in which the district is located. The initial directors
12 shall draw lots to achieve staggered terms, with three of the
13 directors serving one-year terms and two of the directors serving
14 two-year terms.

15 SECTION 18. Section 387.006(a), Local Government Code, is
16 amended to read as follows:

17 (a) A district may:

18 (1) perform any act necessary to the full exercise of
19 the district's functions;

20 (2) accept a grant or loan from:

21 (A) the United States;

22 (B) an agency or political subdivision of this
23 state; or

24 (C) a public or private person;

25 (3) acquire, sell, lease, convey, or otherwise dispose
26 of property or an interest in property under terms determined by the
27 district;

- 1 (4) employ necessary personnel; ~~and~~
2 (5) adopt rules to govern the operation of the
3 district and its employees and property; and
4 (6) enter into agreements with municipalities
5 necessary or convenient to achieve the district's purposes,
6 including agreements regarding the duration, rate, and allocation
7 between the district and the municipality of sales and use taxes.

8 SECTION 19. Section 387.007, Local Government Code, is
9 amended by amending Subsection (b) and adding Subsection (c) to
10 read as follows:

11 (b) A district may not adopt a sales and use tax under this
12 chapter if the adoption of the tax would result in a combined tax
13 rate of all local sales and use taxes that would exceed the maximum
14 combined rate prescribed by Sections 321.101 and 323.101, Tax Code,
15 ~~[of more than two percent]~~ in any location in the district.

16 (c) A district may define areas in the district to pay for
17 improvements, facilities, or services that primarily benefit that
18 area and do not generally and directly benefit the district as a
19 whole. The district may impose different rates of sales and use tax
20 in each defined area, provided that the sales and use tax rate does
21 not exceed the rate approved at an election held under Section
22 387.003.

23 SECTION 20. Section 387.009, Local Government Code, is
24 amended to read as follows:

25 Sec. 387.009. TAX RATE. The rate of a tax adopted under
26 this chapter must be in increments of one-eighth~~[, one-fourth,~~
27 ~~three-eighths, or one-half]~~ of one percent.

1 SECTION 21. Sections 387.010(a), (b), and (c), Local
2 Government Code, are amended to read as follows:

3 (a) A district that has adopted a sales and use tax under
4 this chapter may, by order and subject to Section 387.007(b):

5 (1) reduce [~~change~~] the rate of the tax or repeal the
6 tax without an election, except that the district may not repeal the
7 sales and use tax or reduce the rate of the sales and use tax below
8 the amount pledged to secure payment of an outstanding district
9 debt or contractual obligation;

10 (2) increase the rate of the sales and use tax, if the
11 increased rate of the sales and use tax will not exceed the rate
12 approved at an election held under Section 387.003; or

13 (3) increase the rate of the sales and use tax to a
14 rate that exceeds the rate approved at an election held under
15 Section 387.003 after [~~if~~] the increase [~~change or repeal~~] is
16 approved by a majority of the votes received in the district at an
17 election held for that purpose.

18 (b) The tax may be changed under Subsection (a) in one or
19 more increments of one-eighth of one percent [~~to a maximum of~~
20 ~~one-half of one percent~~].

21 (c) The ballot for an election to increase [~~change~~] the tax
22 shall be printed to permit voting for or against the proposition:
23 "The increase [~~change~~] of a sales and use tax for the ____ County
24 Assistance District No. ____ (insert name of district) from the rate
25 of ____ [~~of one~~] percent (insert [~~one-fourth, three-eighths, or~~
26 ~~one-half, as~~] appropriate rate) to the rate of ____ [~~of one~~] percent
27 (insert [~~one-fourth, three-eighths, or one-half, as~~] appropriate

1 rate)."

2 SECTION 22. Section 387.012, Local Government Code, is
3 amended to read as follows:

4 Sec. 387.012. EFFECTIVE DATE OF TAX. The adoption of the
5 tax, the increase or reduction [~~change~~] of the tax rate, or the
6 repeal of the tax takes effect on the first day of the first
7 calendar quarter occurring after the expiration of the first
8 complete quarter occurring after the date the comptroller receives
9 a copy of the order of the district's governing body [~~notice of the~~
10 ~~results of the election~~] adopting, increasing, reducing
11 [~~changing~~], or repealing the tax.

12 SECTION 23. Section 1702.104(b), Occupations Code, is
13 amended to read as follows:

14 (b) For purposes of Subsection (a)(1), "obtaining or
15 furnishing information" includes information obtained or furnished
16 through the review and analysis of, and the investigation into the
17 content of, computer-based data not available to the public.
18 "Obtaining or furnishing information" does not include information
19 obtained or furnished by an information technology professional who
20 is an employee of a county and who is:

21 (1) in the course and scope of employment, installing
22 or repairing computer equipment belonging to the county or is
23 examining the cause for required repair; and

24 (2) not performing any other act that requires a
25 license under this chapter.

26 SECTION 24. Section 632(f)(1), Texas Probate Code, is
27 amended to read as follows:

1 (1) In cases in which it is provided that personal
2 service shall be had with respect to a citation or notice, the
3 citation or notice must be served on the attorney of record for the
4 person who is being cited or notified. Notwithstanding the
5 requirement of personal service, service may be made on the
6 attorney by any method specified under this chapter for service on
7 an attorney. If there is no attorney of record in the proceeding
8 for the person who is being cited or notified, or if an attempt to
9 make service on the attorney was unsuccessful, a citation or notice
10 directed to a person within this state must be served [~~in person by~~
11 ~~the sheriff or constable~~] on the person who is being cited or
12 notified by delivering to the person a true copy of the citation or
13 notice at least 10 days before the return day on the citation or
14 notice, exclusive of the date of service. If the person who is
15 being cited or notified is absent from the state or is a
16 nonresident, the citation or notice may be served by a
17 disinterested person competent to make oath of the fact. The
18 citation or notice served by a disinterested person shall be
19 returnable at least 10 days after the date of service, exclusive of
20 the date of service. The return of the person serving the citation
21 or notice shall be endorsed on or attached to the citation or
22 notice. The return must show the time and place of service, certify
23 that a true copy of the citation or notice was delivered to the
24 person directed to be served, be subscribed and sworn to before an
25 officer authorized by the laws of this state to take affidavits,
26 under the hand and official seal of the officer, and returned to the
27 county clerk who issued the citation or notice. If the citation or

1 notice is returned with the notation that the person sought to be
2 served, whether or not within this state, cannot be found, the clerk
3 shall issue a new citation or notice directed to the person sought
4 to be served and service shall be by publication.

5 SECTION 25. Section 633(c), Texas Probate Code, is amended
6 to read as follows:

7 (c) The sheriff, constable, or other person authorized by
8 law [~~officer~~] shall personally serve citation to appear and answer
9 the application for guardianship on:

10 (1) a proposed ward who is 12 years of age or older;

11 (2) the parents of a proposed ward if the whereabouts
12 of the parents are known or can be reasonably ascertained;

13 (3) any court-appointed conservator or person having
14 control of the care and welfare of the proposed ward;

15 (4) a proposed ward's spouse if the whereabouts of the
16 spouse are known or can be reasonably ascertained; and

17 (5) the person named in the application to be
18 appointed guardian, if that person is not the applicant.

19 SECTION 26. Section 875(e), Texas Probate Code, is amended
20 to read as follows:

21 (e) On the filing of an application for temporary
22 guardianship, the clerk shall issue citation to be served in any
23 manner authorized by law [~~notice that shall be served~~] on the
24 respondent, the respondent's appointed attorney, and the proposed
25 temporary guardian named in the application, if that person is not
26 the applicant. The citation [~~notice~~] must describe the rights of
27 the parties and the date, time, place, purpose, and possible

1 consequences of a hearing on the application. A copy of the
2 application must be attached to the citation [~~notice~~].

3 SECTION 27. (a) Article 26.13(j), Code of Criminal
4 Procedure, as added by this Act, applies only to an offense
5 committed on or after the effective date of this Act. An offense
6 committed before the effective date of this Act is governed by the
7 law in effect at the time the offense was committed, and the former
8 law is continued in effect for that purpose. For purposes of this
9 section, an offense was committed before the effective date of this
10 Act if any element of the offense occurred before that date.

11 (b) Section 61.001(f), Government Code, as amended by this
12 Act, applies only to a disbursement for the reimbursement for jury
13 service expenses on or after the effective date of this Act.

14 (c) The changes in law made by Sections 262.003, 262.023,
15 271.024, and 363.156, Local Government Code, as amended by this
16 Act, apply only to a purchase made or contract executed on or after
17 the effective date of this Act. A purchase made or contract
18 executed before the effective date of this Act is governed by the
19 law in effect immediately before that date, and the former law is
20 continued in effect for that purpose.

21 SECTION 28. The changes in law made by this Act to Sections
22 632(f)(1), 633(c), and 875(e), Texas Probate Code, apply to a
23 guardianship proceeding that is pending or commenced on or after
24 the effective date of this Act.

25 SECTION 29. Section 387.010(d), Local Government Code, is
26 repealed.

27 SECTION 30. This Act takes effect September 1, 2009.